

IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF WEST VIRGINIA  
ELKINS DIVISION

**STATE OF WEST VIRGINIA,**

Plaintiff,

v.

**UNITED STATES DEPARTMENT OF  
HOMELAND SECURITY; and**

**ALEJANDRO MAYORKAS**, in his official capacity as the Secretary of the United States Department of Homeland Security,

Defendants.

Case No. 2:21-CV-22

(Judge Kleeh)

**NOTICE REGARDING MEET AND CONFER  
AND UNOPPOSED MOTION FOR EXTENSION OF TIME**

As directed in the Court’s Order Lifting Stay and Directing Parties to Meet and Confer (ECF No. 44) (the “Order”), the parties did meet and confer on May 16, 2023, via telephone conference. The conference call was preceded by electronic communications of substance and has since been followed up by further electronic correspondence. The parties had a lengthy, productive, and substantive conference call, addressing the proposed second amended complaint as previously filed. Also, the parties took up other concerns related to any amended complaint and this matter generally moving forward, such as briefing schedules for likely subsequent motions, potential upcoming availability, and other pending litigation that could impact this matter.

The Plaintiff, State of West Virginia (the “State”), is consequently revisiting several parts of the proposed second amended complaint in keeping with that discussion and, as suggested during the meet and confer, expects to continue that discussion in conjunction with later review of a revised proposed amended complaint to work toward minimizing and/or clarifying any issues,

agreements, and disagreements remaining with said amended complaint prior to ultimately filing. However, more time is needed beyond the present June 2, 2023, amended complaint motion filing deadline (as set by the Order) to allow time for further discussion and review as contemplated above. Additionally, the Supreme Court's upcoming decision in *U.S. v. Texas* (Docket No. 22-58), which was previously raised by Defendants' counsel during the May 1 hearing, may present other ramifications relative to any amended complaint, such that considering that decision prior to filing a revised amended complaint here would be prudent and efficient.

For these reasons, the State requests that the current amended complaint motion filing deadline be extended. As a new deadline for such motion, the State suggests 20 days after the release of the Supreme Court's opinion in *U.S. v. Texas*. The State's counsel has communicated with Defendants' counsel regarding this request for extension of the current amended complaint motion filing deadline, and Defendants' counsel has directed that Defendants' consent may be noted here.

Based on the foregoing, the State respectfully requests that this Honorable Court grant its motion for an extension of time, as well as any other relief it may deem appropriate.

Respectfully submitted,

STATE OF WEST VIRGINIA,

By counsel,  
PATRICK MORRISEY,  
ATTORNEY GENERAL

/s/ Curtis R. A. Capehart  
Douglas P. Buffington II (WV Bar # 8157)  
*Chief Deputy Attorney General*  
Brent Wolfingbarger (WV Bar # 6402)  
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*Counsel for Plaintiff, STATE OF WEST VIRGINIA*

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**CERTIFICATE OF SERVICE**

I hereby certify that, on this 26<sup>th</sup> day of May 2023, I electronically filed the foregoing “Notice Regarding Meet and Confer and Unopposed Motion for Extension of Time” with the Clerk of Court and all parties using the CM/ECF System.

/s/ Curtis R. A. Capehart  
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Brent Wolfingbarger (WV Bar # 6402)  
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